

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

ROBERT DAVIS

PLAINTIFF

vs.

NO.: 4-07-CV-00521-BSM

UNION PACIFIC RAILROAD COMPANY

DEFENDANT

UNION PACIFIC'S STATEMENT OF MATERIAL FACTS NOT IN ISSUE

Comes now Defendant, Union Pacific Railroad Company, and for its Statement of Material Facts Not in Issue, states:

1. Plaintiff Robert Davis filed a Complaint against Union Pacific under the Federal Employers' Liability Act, alleging that he rolled his left ankle on ballast near the Service Track in the North Little Rock yard on February 13, 2007.
2. Plaintiff contends that the incident resulted in an injury to his left ankle and left knee.
3. Ballast consists of crushed rock and other materials, and it supports the track structure and provides drainage.
4. Ballast is regulated by the Federal Railroad Administration pursuant to the Federal Rail Safety Act. *See* 49 C.F.R. § 213.103.
5. The purpose of ballast is to transmit and distribute the load of trains, restrain the track, drain the track and maintain proper track crosslevel, surface, and alignment.
6. There are no requirements regarding the size of ballast.
7. Plaintiff was working as an employee of Union Pacific near the Service Track in Union Pacific's North Little Rock yard at the time he was allegedly injured.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Kristopher B. Knox, do hereby certify that on this 5th day of January, 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System which will send notification of such filing to the following:

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